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## **Centers for Medicare & Medicaid Services**

**42 CFR Parts 438, 441, and 447**

**CMS-2370-CN**

**RIN 0938-AQ63**

### **Medicaid Program; Payments for Services Furnished by Certain Primary Care Physicians and Charges for Vaccine Administration under the Vaccines for Children Program; Correction**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects technical errors that appeared in the final rule published in the November 6, 2012 **Federal Register** entitled "Medicaid Program; Payments for Services Furnished by Certain Primary Care Physicians and Charges for Vaccine Administration under the Vaccines for Children Program."

**EFFECTIVE DATE:** The provisions of this final rule are effective on January 1, 2013.

#### **FOR FURTHER INFORMATION CONTACT:**

Mary Cieslicki, (410) 786-4576, or Linda Tavener, (410) 786-3838, for issues related to payments for primary care physicians.

Mary Beth Hance, (410)786-4299, for issues related to charges for the administration of pediatric vaccines.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

In FR Doc. 2012-26507 of November 6, 2012 (77 FR 66670), there were a number of technical errors that are identified and corrected in the Correction of Errors section below. The provisions in this correction document are effective as if they had

been included in the document published November 6, 2012. Accordingly, the corrections are effective January 1, 2013.

## **II. Summary of Errors**

In the November 6, 2012 final rule (77 FR 66670), we inadvertently published technical errors in §447.400(a) and §447.405 listed on page 66701. One correction ensures consistency between two sentences in the same paragraph and the other restores text inadvertently omitted from the final rule that had been included in the May 11, 2012 notice of proposed rulemaking (77 FR 27671) on pages 26789-90. Thus, we are correcting page 66701 to reflect the correct information.

## **III. Waiver of Proposed Rulemaking**

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued. The policies expressed in final rule (77 FR 66670) have been previously subjected to notice and

comment procedures. This notice merely provides a technical correction to the final rule and does not make substantive changes to the policies or methodologies that were expressed in the final rule. One technical correction ensures consistency of two sentences of the same paragraph, and the other restores text that had been present in the notice of proposed rulemaking (77 FR 27671) but inadvertently omitted from the final rule text. Therefore, we find it unnecessary to undertake further notice and comment procedures with respect to this correction notice and find good cause to waive notice and comment procedures and the 30-day delay in the effective date for this correction notice.

#### **IV. Correction of Errors**

In FR Doc. 2012-26507 of November 6, 2012 (77 FR 66670), make the following corrections:

1. On page 66701, in the first column; in the last full sentence, in the first partial paragraph, the sentence reads, “A physician self-attests that he/ she:”. Correct the sentence to read, “Such physician then attests that he/she:”.

2. On the same page, in the same column; in the last full paragraph, paragraph (a) reads, “For CYs 2013 and 2014, a state must pay for physician services described in §447.400 based on:”. Correct the sentence to read, “For CYs 2013 and 2014, a state must pay for physician services described in §447.400 based on the lower of:”.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare--Hospital Insurance; and Program No. 93.774, Medicare--Supplementary Medical Insurance Program)

Dated: December 3, 2012.

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Oliver Potts,  
Deputy Executive Secretary to the  
Department,  
Department of Health and Human  
Services.

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